

House Bill 743 (AS PASSED HOUSE AND SENATE)

By: Representatives Glanton of the 76th, Johnson of the 75th, Baker of the 78th, Heckstall of the 62nd, and Jordan of the 77th

A BILL TO BE ENTITLED
AN ACT

To amend an Act creating a code of ethics and ethics commission for the Clayton County School System, approved April 24, 2008 (Ga. L. 2008, p. 3616), so as to revise provisions relating to the ethics commission; to provide for removal of commission members for failure to carry out duties or attend meetings; to provide that the commission shall have the exclusive authority to punish ethical violations by members of the school board; to provide for a budget for the commission; to authorize the commission to adopt a seal; to change provisions relating to procedures and evidentiary rules and standards in proceedings of the commission; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act creating a code of ethics and ethics commission for the Clayton County School System, approved April 24, 2008 (Ga. L. 2008, p. 3616), is amended by revising paragraph (2) of Section 1 as follows:

"(2) 'Commission' or 'ethics commission' means the ethics commission created by Section 4 of this Act which shall be known as the Clayton County School System Ethics Commission."

SECTION 2.

Said Act is further amended by revising subsection (a) of Section 4 as follows:

"(a) Board members shall be punished for violations of this Act as provided in this section. The authority to punish ethical violations by members of the board shall be vested exclusively in the Clayton County School System Ethics Commission and not in the board."

SECTION 3.

Said Act is further amended by revising subsections (d) through (k) of Section 4 as follows:

"(d)(1) Members of the ethics commission shall be compensated on a per meeting basis at a rate determined by the board and based on the appropriation of funds. A commissioner must be in attendance in order to receive compensation.

(2) The ethics commission shall elect one member to act as chairperson for a term of two years, or until a successor is duly elected. The chairperson shall have the same voting rights as the other commission members. The commission shall also elect one member to act as vice chairperson for the same term. If the office of chairperson or vice chairperson is vacated in any manner before the expiration of the term, the commission shall elect a member to fill the unexpired term. If any member of the commission repeatedly fails to carry out his or her official duties, attend meetings of the commission, or adhere to the ethical code of conduct as provided by this Act or other applicable state or federal law, that member may be removed from the commission by vote of the majority of the other members of the commission.

(3) The board office will provide staff support to the ethics commission. The board shall annually establish and fund a budget for operations of the commission, with expenditures from this budget to be authorized and carried under budgetary controls established by the board. It is the intention of the General Assembly to seek state funding of the commission within two years after July 1, 2009, and the obligation of the board to provide and fund a budget for the commission shall terminate when and if state funding becomes effective.

(4) Five members of the commission shall constitute a quorum.

(5) The commission shall establish guidelines relating to sanctions for various offenses consistent with the provisions of this Act.

(6) The commission shall have the authority to retain legal counsel as needed.

(7) The commission shall be authorized to adopt a seal for use in the conduct of its official business.

(e)(1) Any citizen eligible to vote in Clayton County or any employee of the Clayton County School System may file a complaint alleging a violation of the standards established by this Act or other applicable state or federal law by filing it with the commission. The complaint shall be in writing and verified under oath.

(2) The chairperson of the ethics commission shall immediately forward a copy of the complaint by certified mail to the board member against whom the complaint was filed, along with a copy to each member of the board. A complaint must be filed within six months of the date of the alleged violation or, in the case of concealment or nondisclosure, within six months of the date the alleged violation should have been discovered after due diligence.

(3) Within 30 days of receipt of a complaint, the ethics commission shall meet to review the complaint to determine the complaint's credibility and whether the complaint states an offense which, if proven true, would warrant sanction. Such meeting shall not be open to the public. If, after reviewing the complaint, the commission by majority vote determines that no good and sufficient cause exists for a determination that a violation exists, the commission may dismiss the complaint and shall report said dismissal to the board and the complaining party.

(f) If the commission determines that good and sufficient cause exists for a determination that a violation has occurred, the commission shall conduct a formal public hearing. The commission shall at least 20 days prior to the hearing notify the board member charged with a violation of the date, time, and place for the hearing by certified and regular mail. At the hearing, the commission shall hear sworn testimony from all witnesses it deems relevant. Formal rules of evidence shall not apply, but the commission shall have the authority to exclude witnesses or testimony which it deems irrelevant. The hearing shall be recorded by a certified court reporter. The commission is authorized to issue subpoenas on behalf of any party and for the appearance of any party or documents as provided by law. A party desiring the issuance of a subpoena shall at least ten days before the hearing request the commission to issue the subpoena. Hearings shall be open to the public and shall comply with all state and federal open meetings and open records laws.

(g) The accused board member shall have the following rights:

(1) To be represented by counsel;

(2) To view all evidence and interview all witnesses sufficiently prior to the hearing to prepare a defense;

(3) To subpoena, through the commission, any relevant documents or witnesses;

(4) To cross examine all witnesses testifying at the hearing;

(5) To view any exculpatory evidence in the possession of the commission; and

(6) To present any evidence and testimony in his or her defense.

(h) If the commission determines that the evidence shows by clear and convincing evidence that the accused board member committed the offense for which he or she is accused, the commission shall issue written findings and shall censure or reprimand the board member or order the removal of the board member from office.

(i) The commission shall notify the board and the accused board member of its action within five days of its decision by sending a certified letter to the chairperson and vice chairperson of the board, the accused board member, and the accused board member's attorney, if any. The accused board member shall provide the commission with an address to which the commission's decision may be mailed, and notice of the decision shall be deemed to have been delivered on the day it was posted to such address.

97 (j) If the commission orders removal of a board member from office, the board member
98 shall immediately lose all voting privileges and other privileges as a board member,
99 pending the resolution of any appeal."

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SECTION 4.

101 All laws and parts of laws in conflict with this Act are repealed.